

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

L.B., a minor, by and through her Guardian,  
ANN BROCK,

Plaintiff,

v.

WELLS FARGO & COMPANY HEALTH  
PLAN and UNITED BEHAVIORAL  
HEALTH, INC.,

Defendants.

Case No. 3:13-cv-176-MOC

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**AMENDED PRETRIAL ORDER AND CASE MANAGEMENT PLAN**

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IN ACCORDANCE WITH the Local Rules of the Western District of North Carolina, and pursuant to Rule 16 of the Federal Rules of Civil Procedure, the undersigned enters the following Amended Pretrial Order and Case Management Plan in this ERISA matter.

**DEADLINES AT A GLANCE**

<b>Service of Revised Admin. Record:</b>	<b>May 1, 2014</b>
<b>Objections to Rev. Admin. Record:</b>	<b>June 2, 2014</b>
<b>Cross Motions for Summary J. on Settled Admin. R.:</b>	<b>July 15, 2014</b>
<b>(Response briefs allowed; no reply briefs allowed)</b>	
<b>Ready Date for Trial:</b>	<b>August 18, 2014</b>
<b>(Bench trial on the papers)</b>	

## **I. MOTIONS**

- A. DISPOSITIVE MOTIONS DEADLINE:** All motions except motions in limine and motions to continue shall be filed no later than July 15, 2014.
- B. MOTIONS HEARINGS:** Hearings on motions ordinarily will be conducted only when the Rules require a hearing, when the papers filed in support of an in opposition to the motion do not provide an adequate basis for decision, or at the request of a party and when the Court determines it would aid the decisional process. All motions requiring a hearing will be heard as soon as is practical. The Clerk will notify all parties as far in advance as possible of the date and time set for the hearing.
- C. MEMORANDA IN SUPPORT OF MOTIONS:** Every motion shall include, or be accompanied by, a brief written statement of the facts, a statement of the law, including citations of authority and the grounds on which the motion is based. Motions not in compliance with this Order are subject to summary denial.
- D. RESPONSES AND REPLIES:** Responses to motions, if any, must be filed within fourteen (14) days of the date on which the motion is filed. Pursuant to Rule 6(e) [of the Rules], when a party serves a motion by any manner, the respondent shall have an additional three (3) days to file a response.
- E. ENLARGEMENT OF TIME:** If counsel need more than fourteen (14) days to file a response, a motion for extension of time shall be filed, accompanied by a proposed order. The moving party must show consultation with opposing counsel regarding the requested extension and must notify the Court of the views of opposing counsel on the request. If a party fails to make the requisite showing, the Court may summarily deny the request for extension.

**F. MOTIONS TO COMPEL:** A motion to compel must include a statement by the movant that the parties have conferred in good faith in an attempt to resolve the dispute and are unable to do so. Consistent with the spirit, purpose, and explicit directives of the Federal Rules of Civil Procedure and the Local Rules of the Western District of North Carolina, the Court expects all parties (and counsel) to attempt in good faith to resolve discovery disputes without the necessity of court intervention. Failure to do so may result in appropriate sanctions.

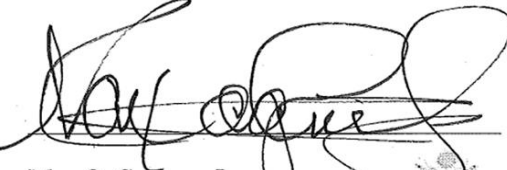
## **II. TRIAL**

**A. TRIAL:** The parties have stipulated that the Court may dispose of this ERISA action based upon the parties' cross-motions for judgment, the attachments thereto, their memoranda in support thereof, and the Settled Administrative Record on Remand. Because this matter is governed by ERISA, a jury trial has not been demanded and no jury trial is available. The parties estimate that the total time needed for trial will be approximately one day. The parties have jointly proposed that, to the extent necessary, trial of this matter be held during the Court's next available civil trial term following entry of the Court's rulings on the parties' cross-motions for judgment. Accordingly, should the Court's rulings on the parties' cross-motions for judgment not completely dispose of this matter, a further order will be entered setting the trial date and addressing counsels' duties prior to trial.

### **III.    ADR**

This matter proceeded to mediation on August 16, 2013, resulting in impasse. Counsel for the parties have conferred and agree that reconvening mediation would be unproductive.

Signed: July 1, 2014



Max O. Cogburn Jr.  
United States District Judge